

# Federal Defenders OF NEW YORK, INC.

Southern District  
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**BY ECF**

June 6, 2022

Honorable Katherine Polk Failla  
United States District Judge  
Southern District of New York  
New York, New York 10007

**MEMO ENDORSED**

**Re: United States v. John E. Cabrera**  
**18 Cr. 92 (KPF)**

Honorable Judge Failla,

I write to provide an update and request that the Court schedule a change of plea hearing and sentencing. The parties have reached a pretrial disposition. Pursuant to a written plea agreement with the government, Mr. Cabrera intends to plead guilty to a superseding information charging him with one count of introducing, or delivering for introduction, an adulterated or misbranded product into interstate commerce, in violation of 21 U.S.C. §§ 331(a) and 333(a)(1). This offense carries a maximum penalty of one year in prison and one year of supervised release.

The parties are prepared to proceed with a change of plea hearing. In addition, the defense requests that the Court conduct the plea and sentencing on the same date or, alternatively, schedule a sentencing for soon after the plea. Mr. Cabrera specifically requests that the Court proceed without a new presentence investigation report and waives his right to any such report. The Court presided over Mr. Cabrera's prior trial, previously sentenced Mr. Cabrera in connection with this matter, and has the presentence report from that sentencing, which contains relevant background information. The parties can provide an update letter in advance of any sentencing. These materials should provide the Court with sufficient information to meaningfully exercise its sentencing authority, in accordance with Federal Rule of Criminal Procedure 32(c)(1)(A)(ii). The defense also notes that Mr. Cabrera has already served a prison term that exceeds the statutory maximum term for the offense to which he will be pleading guilty.

I have conferred with AUSA Danielle Sassoon on behalf of the government, and I understand that the government does not object to proceeding with the plea and sentencing on the same date or proceeding without a new presentence report. Thank you for consideration of these requests.

Respectfully submitted,

/s/

Sarah Baumgartel  
Assistant Federal Defender  
Tel: (212) 417-8772

cc: Government Counsel (by ECF)

Application GRANTED. The parties are hereby ORDERED to appear for a plea hearing and sentencing on **June 29, 2022, at 2:00 p.m.** in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. As the Court will proceed without a new presentence investigation report, the parties are ORDERED to file a letter informing the Court of any relevant updates two weeks prior to sentencing. The Clerk of Court is directed to terminate the pending motion at docket number 129.

Dated: June 7, 2022  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE